

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 24162 of 2007(B)

AGAINST THE ORDER DATED 24/02/2006 IN IA 2077/2005 IN
OS.300/1987 of ADDL.SUB COURT, PALAKKAD

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PETITIONERS:

1. SIVADAS, S/O. GOPALAKRISHNAN,
2. CHAMUNNI, S/O. RAMAKRISHNAN.
BOTH ARE RESIDING AT PULIKULAM HOUSE,
PALLATHERI, PALAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS

RESPONDENTS:

1. KRISHNANUNNI, S/O. THEETHI,
RESIDING AT KIZHAKKAMPURATH, MANNUR AMSOM,
PALAKKAD TALUK.
2. KANDUNNI, S/O. RAMAKRISHNAN.
3. KALADHARAN, S/O. RAMAKRISHNAN.
4. KRISHNANKUTTY, S/O. RAMAKRISHNAN.
5. SATHYASEELAN, S/O. GOPALAKRISHNAN.
RESPONDENTS 2 TO 5 ARE RESIDING AT PULIKULAM HOUSE
PALLATHERI, PALAKKAD.

BY ADV. SRI.P.R.VENKETESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C) 24162/07

Appendix

Petitioners' Exts:

Ext.P1 true copy of the common judgment dated 20.3.2003.

Ext.P2 true copy of the order in IA No.2077/05 in OS 300/87 on the file of the court of the subordinate Judge of Palakkad dated 24.2.2006.

M.N.Krishnan, J.

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W.P(C).No.24162 of 2007

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Dated this the 2nd day of November, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Subordinate Judge, Palakkad in I.A.No.2077 of 2005 in O.S.No.300 of 1987. It is an application filed under Order 9 Rule 13 read with Section 151 of C.P.C. The point involved in this case is regarding the directions of this Court in C.M.A.Nos.96 of 1994, 97 of 1994 and C.R.P.Nos. 895 of 1994, 898 of 1994 and 1633 of 1998. This court allowed C.M.A.Nos.96 of 1994 and 97 of 1994 and also C.R.P.Nos. 895 of 1994 and 898 of 1994. It is desirable to extract the sentences to understand the directions given by this Court: "Even though there are laches on the part of the defendants, that can be compensated by cost. According to us, an amount of Rs.1,000/- (Rupees one thousand only) each on the Civil Miscellaneous Appeals is sufficient cost." So, C.M.A.Nos.96 of 1994, 97 of 1994 and C.R.P.Nos.895 and 989 of 1994 are only to be allowed."

2. Learned counsel for the writ petitioner brought to my notice that the court below has not understood the terms of this Court properly and therefore opined that in the C.M.As. each of the appellant has to pay Rs.1,000/- and therefore the total payment of cost, according to the court below, will come to Rs.6,000/-. But there cannot be any doubt. On reading of paragraph 6 of the judgment of this Court what this court has directed is a consolidated cost of Rs.1,000/- each in both the C.M.As.

3. Therefore, the understanding of the order of this Court by the court below is not proper and therefore, the impugned order is liable to be set aside. The court below is directed to set aside the ex parte decree, permit the defendants to file written statement and then proceed with the matter in accordance with law.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.